

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD E. KELLEY
and NORMAN J. DAUERER

Appeal No. 2002-0665
Application 08/977,519

ON BRIEF

Before THOMAS, RUGGIERO and DIXON, Administrative Patent Judges.
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1-20.

Representative claim 1 is reproduced below:

1. A process for providing web browser access to a computer operating system desktop having icons displayed on a screen thereof, said process comprising:

OPINION

We reverse.

Appellants' Summary of the Invention at pages 4 and 5 of the principal brief on appeal explains well the nature and scope of the subject matter in each independent claim 1, 10, 17 and 19 on appeal. The references there are specifically to Figure 3 and pages 9 and 10 of the specification as filed. The Summary of the Invention in the brief, for our purposes, is consistent with the Summary of the Invention at page 3 of the specification as filed as well.

More specifically, at page 9 of the specification as filed, Figure 2 is discussed with respect to the various icons shown there. It is stated at the middle of page 9 that "[u]nique HTML tags are assigned to the program and data file of each icon. A web page is viewable on a web browser to display the HTML tags." Table 1 then shows an example of an HTML folder tag. Figure 3 depicts a view of a web browser web page and sub-folder web page having HTML tags corresponding to the icons displayed in Figure 2. Various HTML tags are shown in Figure 3 displayed on the web page 26, where the HTML tags correspond respectively to the operating system icons of Figure 2. The HTML tags shown in

Appeal No. 2002-0665
Application 08/977,519

Figure 3 may be used to launch the executable programs and data files of the operating system or folders containing one or more of such executable program and data files on the operating system.

We summarize these considerations by making reference to the last two clauses of independent claim 1 on appeal which are in turn characterized in the Summary of the Invention at page 3 where it is indicated that the "web page is viewable on a web browser such that the HTML tags are displayed on the web page and executable by the web browser to execute the programs on the operating system." The latter portions of each independent claim 1, 10, 17 and 19 on appeal correspond to these features and the last two clauses of representative claim 1 reproduced earlier in this opinion.

In reversing the rejection, it appears to us from our study of the answer and our detailed study of the entirety of Slivka itself, the examiner has not come to grips with the noted subject matter at the end of each independent claim on appeal. The examiner asserts that the step of independent claim 1 on appeal of assigning an HTML tag to the program and data file of the operating system icon to be accessed and the subsequent step of

Appeal No. 2002-0665
Application 08/977,519

constructing a web page of the accessed icon and link programs and data files such that the HTML tag is displayed on the web page and executable by the web browser to execute said program on the operating system are met by the teachings and suggestions at column 17, lines 25-30 and column 18, line 49 through column 20, line 7 as expressed at various portions of the answer. With this conclusion we disagree.

Our study of the following portions of Slivka leads us to conclude that the noted features emphasized earlier in this opinion are not taught or suggested by Slivka: the Abstract; the Summary of the Invention at column 3, line 31 through column 4, line 25; column 6, lines 20-40 discussing HTML tags; column 11 in its entirety and its corresponding discussion of Figure 2's shell 50, pre-processor 60, desktop interface control 64, shell explorer 72, and hypertext viewer 70 as they relate to the display and formulation of the hypertext page 56 and the hypertext view 54 at the bottom of Figure 2; for emphasis, we make reference to column 11, lines 51-65 and include in this listing of pertinent portions of Slivka the two earlier noted portions relied upon by the examiner.

Appeal No. 2002-0665
Application 08/977,519

Our study of Slivka and, in particular, these noted portions that we have just emphasized, lead us to conclude that this reference does not teach or even suggest that any assigned HTML tag is displayed on a web page and is thereby executable by the web browser to execute the program on the operating system as required at the end of each independent claim on appeal. The examiner's positions in the answer appear to take the view that the variously mentioned HTML tags discussed in Slivka are actually displayed in the manner claimed, yet we have found otherwise, however. Therefore, the examiner has not presented any arguments as to why such a feature would have been obvious to the artisan. Moreover, we are unaware of any reasoning on our own that may be probably advanced within 35 U.S.C. § 103 based upon the teachings and suggestions in Slivka that the artisan would have found it obvious to have displayed the HTML tag itself on a web page associated with it thereby permitting the HTML tag to be executed by the web browser to execute the corresponding program on the operating system to the extent claimed.

Appeal No. 2002-0665
Application 08/977,519

In view of the foregoing, the decision of the examiner rejecting each of the independent claims on appeal and their corresponding dependent claims is reversed.

REVERSED

James D. Thomas)	
Administrative Patent Judge)	
)	
)	
)	
Joseph F. Ruggiero)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
Joseph L. Dixon)	
Administrative Patent Judge)	

Delio & Peterson, LLC
121 Whitney Avenue
New Haven, CT 06510

JDT/cam